

1974—change effective date of Phoenix, Ariz.—Phoenix Sky Harbor Int'l. Arpt., NDB-A, Amdt. 1, Cancellation, to April 25, 1974.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1)))

Issued in Washington, D.C., on March 21, 1974.

JAMES M. VINES,

Chief, Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 74-7239 Filed 3-28-74; 8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-840; Amdt. 11]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Fuel Consumption and Inventories; Reporting Requirements

Pursuant to Chairman Timm's letter of January 17, 1974, all route and supplemental air carriers have been reporting on an interim basis, fuel cost data on a form titled "CAB Form T-90, Fuel Consumption and Inventories." The letter also advised carriers to continue to file this report on a monthly basis, pending its inclusion as a schedule to the Form 41 reports of Part 241 of the Board's Economic Regulations. The reports received thus far, as well as the results of a survey conducted by the Air Transport Association of its 22 member carriers, have disclosed no substantial disagreement with the Board's need for the data nor any reason to believe that the imposition of this reporting requirement constitutes an undue burden on the carriers affected thereby.

The Board finds that it has an urgent regulatory need, so long as the present fuel situation remains basically unchanged, to have this data furnished by the carriers on a regular monthly basis. The Board therefore finds that, in view of the unquestioned need for the data to be furnished pursuant to this regulation and the demonstrated ability of the affected carriers to comply with this requirement, notice and public procedure hereon are unnecessary and would be contrary to the public interest. Accordingly, the Board has adopted the within amendment to Part 241.

The final rule incorporates substantially the same reporting requirements and instructions as were set forth in the interim reporting Form T-90. However, in light of certain questions and comments which have been raised with respect thereto, we have slightly revised the form and clarified the instructions for its completion, as more fully discussed hereinbelow.

To the extent that any of the within revisions, however minor, is regarded by an affected carrier as imposing an un-

necessary reporting burden, we shall allow petitions for reconsideration with respect to such revisions. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, on or before April 8, 1974. Copies of any petition filed will be available for inspection in the Docket Section. The filing of petitions shall not operate to stay the effective date of the within rules.

1. *Domestic and international operations.* All route and supplemental air carriers will continue to report on the new Form 41 Schedule P-5(b) (formerly designated as T-90) for fuel issued and acquired domestically for scheduled and nonscheduled operations. Such fuel as is consumed in "domestic" operations, as defined herein, is to be reported in columns (8) and (9), "Consumed By Carrier In Domestic Operations," indicating in the appropriate section of the report whether it came from the "Carrier's Storage Facilities" or was "Delivered Directly to the Aircraft by Others," as the case may be. In addition, we are adopting the suggestion of some carriers that, in order to conform to book inventories and thus make this report self-balancing, fuel drawn from domestic inventories for consumption in international operations should also be reported; this information is accordingly to be reported in columns (6) and (7), "Sold to Others and Consumed by Carrier in International Operations." However, since the purpose of requiring information with respect to international operations is to facilitate balancing the carrier's inventory reports, this information is to be reported only with respect to fuel issued from "Carrier's Storage Facilities."

For the purposes of this rule, "domestic" operations are those flight stages with both terminals within the 50 States of the United States and the District of Columbia, just as the term is presently defined in section 03 of the Board's Economic Regulations. However, flight stages to and from Canada and Mexico, which are presently reported as domestic operations in the Form 41 reports, will be considered as international operations² for the purposes of this schedule.

It should also be noted that, although all bonded fuel will continue to be reported in Account 45.1, Aircraft Fuels, for the purposes of report Schedule P-5(b),³ bonded fuels will be reported only to the extent that other fuel is reported.

The following examples illustrate the reporting of "domestic" and "international" operations:

¹ In order to facilitate analysis of the data reported under this heading, we are requiring annotation of that portion of fuel volume and cost which is attributable to international operations.

² For purposes of this regulation, international operations shall include "territorial operations," i.e., flight stages with both terminals within territory under U.S. jurisdiction where at least one of the terminals is not within a State or the District of Columbia.

³ Filed as part of original document.

EXAMPLE I

A carrier issues fuel from its "Carrier's Storage Facilities" for a flight to be operated Seattle/San Francisco/Mexico City and return to Seattle via San Francisco. The carrier would report on Schedule P-5(b), in the section for "Carrier's Storage Facilities":

1. The cost of all fuel loaded at Seattle with the next terminal to be San Francisco should be reported in columns (8) and (9), "Consumed by Carrier in Domestic Operations."

2. The cost of all fuel loaded at San Francisco with the next terminal to be Seattle should also be reported in columns (8) and (9), "Consumed by Carrier in Domestic Operations."

3. The cost of all fuel loaded at San Francisco with the next terminal to be Mexico City should be reported in columns (6) and (7), "Sold to Others and Consumed in International Operations," and the gallonage and costs so reported should be properly footnoted.

NOTE: Any fuel loaded in Mexico City is not from domestic storage facilities and information relating thereto is therefore excluded from this schedule.

EXAMPLE II

A carrier purchases fuel which is "Delivered Directly to Aircraft by Others" and operates the same flight sequence as set forth in Example I. The carrier would report on Schedule P-5(b), in the section for "Delivered Directly to Aircraft by Others":

1. The cost of all fuel loaded at Seattle with the next terminal to be San Francisco should be reported in columns (8) and (9), "Consumed by Carrier in Domestic Operations."

2. The cost of all fuel loaded in San Francisco with the next terminal to be Seattle should also be reported in columns (8) and (9), "Consumed by Carrier in Domestic Operations."

NOTE: Fuel purchased in San Francisco with the next terminal to be Mexico City would not be purchased for a "domestic" operation and would therefore not be reported.

2. *Miscellaneous clarifications.* Clarification has been requested as to which of various factors should be included or excluded in calculating the cost of fuel on Schedule P-5(b). Although shrinkage should be included in determining the cost of fuel, the following factors should be excluded from the cost of fuel:

a. "Through-put" and "in to plane" service fees,⁴ and

b. Nonrefundable Federal and State excise taxes. Under the Uniform System of Accounts and Reports, "through-put" and "in to plane" service fees should be reflected in "Account 43.9, Other Services—Outside," and nonrefundable Federal and State excise taxes reflected in

⁴ Service charges or gallonage levies assessed by or against the fuel vendor or concessionaire and passed on to the carrier in a segregated and identifiable form.

⁵ Commonly referred to as purchases.

"Account 69, Taxes—Other than Payroll."

Clarification has also been requested as to the method used to determine cost data reported on Schedule P-5(b). The fuel costs reporter in the section for "Delivered Directly to Aircraft by Others" should be stated in terms of total actual dollars. In the section for "Carrier's Storage Facilities," the total fuel costs

are to be reported and calculated on the periodic average method. In applying this method, the total cost of Beginning Inventory, Column (3), plus Receipts,⁵ column (5), is weighted by the total respective gallons, columns (2) and (4). The resulting quotient should then be applied to extend the gallons issued and in ending inventory. The following will illustrate the method:

	January			February		
	Gallons	Unit cost ¹	Cost	Gallons	Unit cost ¹	Cost
Beginning inventory.....	525,000		\$145,000	420,000		\$117,600
Receipts.....	1,750,000		492,000	1,740,000		519,600
Total.....	2,275,000		637,000	2,160,000		637,200
Issues:						
Sold to others and consumed by carrier in international operations.....	25,000	\$0.28	7,000	8,000	\$0.295	1,770
Consumed by carrier in domestic operations.....	1,830,000	.28	512,400	1,786,000	.295	520,575
Total issues.....	1,855,000		519,400	1,794,000		522,345
Ending inventory.....	420,000	.28	117,600	366,000	.295	108,555

¹ Shown merely for illustrative purposes.

² See the following equation:

$$\frac{\$637,000}{2,275,000 \text{ gal}} = \$0.28 \text{ per gallon}$$

³ See the following equation:

$$\frac{\$637,200}{2,160,000 \text{ gal}} = \$0.295 \text{ per gallon}$$

3. *Technical revisions.* Certain carriers suggested that the Board give consideration to permit grouping station data under a specified amount rather than to require that each station be reported irrespective of quantity or cost. The Board believes this suggestion has merit and accordingly the form and instructions have been revised herein to permit grouping as "Miscellaneous" all stations where less than 5,000 gallons of fuel per month are issued in total, so long as the number of stations so grouped is indicated.

Also, where space on Schedule P-5(b) is not adequate to list all stations, copies of this schedule may be attached, so long as all stations reporting "Carrier's Storage Facilities" data and all stations reporting "Delivered Directly to Aircraft by Others" data are clearly identified in the attached copies.

Other carriers have suggested that a longer reporting deadline be granted, since the current reporting deadline of 10 days is inadequate in light of the coordination problem inherent when numerous stations are reporting data. The Board believes that this suggestion has merit and accordingly we are allowing

Schedule P-5(b) to be filed 15 days after the close of the month.

Finally, the Cost of Living Council has recently advised the Board that it needs the data to be reported on Schedule P-5(b) and that the data would be even more useful if broken down by fuel type. While the Board believes that this data would facilitate its own analysis and evaluation, we recognize that most carriers use the basic Jet A fuel. Accordingly, we have changed the reporting instructions only to provide that, where the amounts reported for a station include other than Jet A fuel, a footnote should be added to Schedule P-5(b) indicating the number of gallons and applicable costs of such other fuel included in the amounts reported for that station.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of its Economic Regulations (14 CFR Part 241) effective May 1, 1974 as follows:

1. Amend Section 22—General Reporting Instructions, as follows:

Section 22—[Amended]

A. By adding new Schedule P-5(b) in the list in paragraph (a), titled "List of Schedules in CAB Form 41" as follows:

List of schedules in CAB Form 41 report

Schedule No.	Schedule title	Filing frequency
P-5(a).....	Components of flight equipment depreciation.....	Quarterly.
P-5(b).....	Fuel consumption and inventories.....	Monthly.
P-6.....	Maintenance, passenger service, and general service and administrative expense functions—all carrier groups.	Quarterly.

RULES AND REGULATIONS

B. By adding new Schedule P-5(b) to the list in paragraph (a) titled "Due Dates of Schedules in CAB Form 41 Report," as follows:

Due dates of schedules in CAB Form 41 report

Due date ¹	Schedule No.
Jan. 15-----	P-5(b).
Jan. 30-----	B-1, P-1(a), T-1, T-2, T-3, T-7, T-41.
Feb. 10 ² -----	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6.
Feb. 15-----	P-5(b).
Mar. 1-----	B-1, P-1(a), T-1, T-7.
Mar. 15-----	P-5(b).
Mar. 30-----	B-1, B-9, B-41, B-42, B-43, B-44, B-46, P-1(a), P-41, G-41, G-42, G-43, G-44, T-1, T-7.
Apr. 15-----	P-5(b).
Apr. 30-----	B-1, P-1(a), T-1, T-2, T-3, T-7.
May 10-----	A, B-1, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6.
May 15-----	P-5(b).
May 30-----	B-1, P-1(a), T-1, T-7.
June 15-----	P-5(b).
June 30-----	B-1, P-1(a), T-1, T-7.
July 15-----	P-5(b).
July 30-----	B-1, P-1(a), T-1, T-2, T-3, T-7.
Aug. 10-----	A, A-1, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6.
Aug. 15-----	P-5(b).
Aug. 30-----	B-1, P-1(a), T-1, T-7.
Sept. 15-----	P-5(b).
Sept. 30-----	B-1, P-1(a), T-1, T-2, T-3, T-7.
Oct. 15-----	P-5(b).
Oct. 30-----	B-1, P-1(a), T-1, T-7, T-41.
Nov. 10-----	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6.
Nov. 15-----	P-5(b).
Nov. 30-----	B-1, P-1(a), T-1, T-7.
Dec. 15-----	P-5(b).
Dec. 30-----	B-1, P-1(a), T-1, T-7.

¹ Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

² B and P reporting dates are extended to Mar. 30, if preliminary schedules are filed at the Board by Feb. 10.

2. Amend Section 24—Profit and Loss Elements, as follows:

Section 24—[Amended]

A. By inserting, following the reporting instructions for Schedule P-5(a) and preceding the reporting instructions for Schedule P-6, reporting instructions for Schedule P-5(b), to read as follows:

SCHEDULE P-5(b)—

FUEL CONSUMPTION AND INVENTORIES

(a) This schedule shall be filed monthly by all route air carriers.

(b) A single copy (original only) of this schedule shall be filed for the fuel issued and acquired from domestic sources for scheduled and nonscheduled operations conducted by the air carrier.

(c) For the purpose of this schedule, fuel drawn for domestic operations is that fuel drawn for use between certificated flight stages with both terminals within the 50 States of the United States and the District of Columbia. The cost of fuel drawn within the United States and the District of Columbia for a flight stage outside of the United States and the District of Columbia is: (1) If drawn from "Carrier's Storage Facilities," included in columns (6) and (7), "Sold to Others and Consumed by Carrier in International Operations," footnoted as to that

portion so reported therein, and (2) excluded from Schedule P-5(b) if it is "Delivered Directly to Aircraft by Others."

(d) The indicated data shall be grouped in alphabetical sequence by station as to: (1) Fuel issued from "Carrier's Storage Facilities," as reported in columns (2) through (11), and (2) fuel "Delivered Directly to Aircraft by Others," as reported in columns (8) and (9) only. Where the amounts reported for a station include other than Jet A fuel, a footnote should be added to this schedule indicating the number of gallons and applicable costs included in the amounts reported for that station. However, for stations where less than 5,000 gallons of fuel per month are issued in total, the aggregate fuel information for all such stations may be reported as "Miscellaneous," denoting the number of stations so reported.

(e) The cost of fuel shall include shrinkage, but shall exclude (1) "through-put" and "in to plane" fees, i.e., service charges or gallonage levies assessed by or against the fuel vendor or concessionaire and passed on to the carrier in a segregated and identifiable form, and (2) nonrefundable Federal and State excise taxes.

(f) All costs reported under the caption "Carrier's Storage Facilities," ex-

cept those actual costs which are to be reported in column (5), "Receipts," shall be computed on the periodic average method. Under this method, the average is computed by dividing the total cost of the Beginning Inventory plus Receipts during the period by the total number of units in these groups. The resulting quotient shall then be applied to extend the units issued and in ending inventory.

(g) Actual costs shall be used to report the cost of fuel under "Delivered Directly to Aircraft by Others."

(h) The beginning inventory of each schedule shall be the ending inventory of the prior period schedule. Differences shall be properly annotated and reconciled.

3. Amend Section 32—General Reporting Instructions, as follows:

Section 32 [Amended]

A. By adding new Schedule P-5(b) in the list in paragraph (a), titled "List of Schedules in CAB Form 41," as follows:

List of schedules in CAB Form 41 report

Schedule No.	Schedule title	Filing frequency
P-5(a)	Components of flight equipment depreciation	Quarterly.
P-5(b)	Fuel consumption and inventories	Monthly.
P-6	Maintenance, passenger service, and general service and administrative expense functions—all carrier groups.	Quarterly.

B. By adding new Schedule P-5(b) to the list in paragraph (a) titled "Due Dates of Schedules in CAB Form 41 Report," as follows:

Due dates of schedules in CAB Form 41 report

Due date ¹	Schedule No.
Jan. 15	P-5(b).
Jan. 30	B-11, T-3.1.
Feb. 10 ²	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Feb. 15	P-5(b).
Mar. 1	B-11, T-3.1.
Mar. 15	P-5(b).
Mar. 30	B-11, B-41, B-43, B-44, B-46, G-41, G-42, G-43, G-44, T-3.1.
Apr. 15	P-5(b).
Apr. 30	B-11, T-3.1.
May 10	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
May 15	P-5(b).
May 30	B-11, T-3.1.
June 15	P-5(b).
June 30	B-11, T-3.1.
July 15	P-5(b).
July 30	B-11, T-3.1.
Aug. 10	A, A-1, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Aug. 15	P-5(b).
Aug. 30	B-11, T-3.1.
Sept. 15	P-5(b).
Sept. 30	B-11, T-3.1.
Oct. 15	P-5(b).
Oct. 30	B-11, T-3.1.
Nov. 10	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Nov. 15	P-5(b).
Nov. 30	B-11, T-3.1.
Dec. 15	P-5(b).
Dec. 30	B-11, T-3.1.

¹ Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

² B and P reporting dates are extended to Mar. 30, if preliminary schedules are filed at the Board by Feb. 10.

4. Amend Section 34—Profit and Loss Elements, as follows:

Section 34—[Amended]

A. By inserting, following the reporting instructions for Schedule P-5(a) and preceding the reporting instructions for Schedule P-6, reporting instructions for Schedule P-5(b), to read as follows:

SCHEDULE P-5(b)—FUEL CONSUMPTION AND INVENTORIES

(a) This schedule shall be filed monthly by all supplemental air carriers.

(b) A single copy (original only) of this schedule shall be filed for the fuel issued and acquired from domestic sources for scheduled and nonscheduled

operations conducted by the air carrier.

(c) For the purposes of this schedule, fuel drawn for domestic operations is that fuel drawn for use between certificated flight stages with both terminals within the 50 States of the United States and the District of Columbia. The cost of fuel drawn within the United States and the District of Columbia for a flight stage outside of the United States and the District of Columbia is: (1) If drawn from "Carrier's Storage Facilities," included in columns (6) and (7), "Sold to Others and Consumed by Carrier in International Operations," footnoted as to that portion so reported therein, and (2) excluded from Schedule P-5(b) if it is "Delivered Directly to Aircraft by Others."

(d) The indicated data shall be grouped in alphabetical sequence by station as to (1) fuel issued from "Carrier's Storage Facilities," as reported in columns (2) through (11) and (2) Fuel "Delivered Directly to Aircraft by Others," reported in columns (8) and (9) only. Where the amounts reported for a station include other than Jet A fuel, a footnote should be added to this schedule indicating the number of gallons and applicable costs included in the amounts reported for that station. However, for stations where less than 5,000 gallons of fuel per month are issued in total, the aggregate fuel information for all such stations may be reported as "Miscellaneous," denoting the number of stations so reported.

(e) The cost of fuel shall include shrinkage, but shall exclude (1) "through-put" and "in to plane" fees, i.e., service charges or gallonage levies assessed by or against the fuel vendor or concessionaire and passed on to the carrier in a segregated and identifiable form and (2) nonrefundable Federal and State excise taxes.

(f) All costs reported under the caption "Carrier's Storage Facilities," except those actual costs which are to be reported in column (5), "Receipts," shall be computed on the periodic average method. Under this method, the average is computed by dividing the total cost of the Beginning Inventory plus Receipts during the period by the total number of units in these groups. The resulting quotient shall then be applied to extend the units issued and in ending inventory.

(g) Actual costs shall be used to report the cost of fuel under "Delivered Directly to Aircraft by Others."

(h) The beginning inventory of each schedule shall be the ending inventory of the prior-period schedule. Differences shall be properly annotated and reconciled.

5. Amend CAB Form 41 by adding new Schedule P-5(b) as shown in Exhibit A below to the rule and made a part thereof.

(Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766 (49 U.S.C. 1324, 1377))

Effective: May 1, 1974.

Adopted: March 14, 1974.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

NOTE: The reporting requirements herein have been approved by the General Accounting Office in accordance with the Federal Reports Act of 1942, as amended.

[FR Doc. 74-7209 Filed 3-28-74; 8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

SUBCHAPTER C—DRUGS

SUBCHAPTER F—BIOLOGICS

RECODIFICATION EDITORIAL AMENDMENTS

The Commissioner of Food and Drugs, for the purpose of establishing an orderly development of informative regulations for the Food and Drug Administration, furnishing ample room for expansion of such regulations in years ahead, and providing the public and affected industries with regulations that are easy to find, read, and understand, has initiated a recodification program for Chapter I of Title 21 of the Code of Federal Regulations.

The fifth document in a series of recodification documents that will eventually include all regulations administered by the Food and Drug Administration appears elsewhere in this issue of the FEDERAL REGISTER. The regulations formerly under Parts 130, 131, 164, 165, and 167 of Subchapter C—Drugs, have been reorganized into Parts 310, 312, 314, 328, 329, 330, 369, and 429 of new Subchapter D—Drugs for Human Use, in an effort to provide greater clarity and adequate space for the development of future regulations.

These recodified regulations are referenced in Parts 1, 2, 3, 8, 132, 135, 144, 146, and 601 of this chapter.

Regulations pertaining to veterinary drugs have been left in Part 131.

To provide uniformity and continuity during the recodification the Commissioner concludes that the references to the recodified material should be revised at this time, and the title of Part 131 be revised to reflect its new composition. Therefore, Parts 1, 2, 3, 8, 131, 132, 135, 144, 146, and 601 of Chapter I of Title 21 of the Code of Federal Regulations are amended as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

§ 1.102 [Amended]

1. In § 1.102(b) by changing the reference "§ 164.7" to read "§ 429.12."

§ 1.106 [Amended]

2. In § 1.106:
a. In paragraph (j), by changing the reference "§ 167.1(a)" to read "§ 328.3(a)"; and by changing the reference "Part 167" to read "Part 328."
b. In paragraph (l) (2) by changing the reference "§ 130.3" to read "§ 312.1."

§ 1.115 [Amended]

3. In § 1.115(b) (2) by changing the reference "Part 164" to read "Part 429."

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

§ 2.65 [Amended]

4. In § 2.65(a) by changing the parenthetical reference "(21 CFR Parts 164 and 8, respectively)" to read "(21 CFR Parts 429 and 8, respectively)."

§ 2.121 [Amended]

5. In § 2.121:
a. In paragraph (u) (1) and (2) by changing the reference "§ 130.3" to read "§ 312.1"; and by changing the reference "§ 130.3a" to read "§ 312.9."

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

§ 3.15 [Amended]

6. In § 3.15(a) (2) by changing the reference "§ 130.4(c)" to read "§ 314.1(e)."

§ 3.29 [Amended]

7. In § 3.29(c) (3) by changing the reference "§ 130.4(c)" to read "§ 314.1(e)."

§ 3.36 [Amended]

8. In § 3.36(d) by changing the reference "§ 130.4(c)" to read "§ 314.1(e)."

§ 3.48 [Amended]

9. In § 3.48(c) by changing the reference "§ 130.3" to read "§ 312.1."

§ 3.52 [Amended]

10. In § 3.52:
a. By changing the reference "§ 130.3" in the introductory text of paragraph (c) to read "§ 312.1."

b. In paragraph (d) (1) by changing the reference "§ 130.3a(a)" to read "§ 312.9(a)."

§ 3.53 [Amended]

11. In § 3.53(c) by changing the reference "§ 130.3" to read "§ 312.1."

§ 3.67 [Amended]

12. In § 3.67(d) (2) by changing the reference "§ 130.4(c) (2)" to read "§ 314.1(c) (2)."

§ 3.77 [Amended]

13. In § 3.77(b), by changing the phrase "Bureau of Narcotics and Dangerous Drugs" to read "Drug Enforcement Administration, Department of Justice" each time it appears; and by changing the reference "§ 130.44" to read "§ 310.505."

§ 3.81 [Amended]

14. In § 3.81(d) by changing the reference "§ 130.9 (d) and (e)" to read "§ 314.8(d) and (e)."

§ 3.90 [Amended]

15. In § 3.90(d) by changing the reference "§ 130.9(d)" to read "§ 314.8(d)."

§ 3.91 [Amended]

16. In § 3.91:
a. In paragraph (c) (4) (ii) by changing the reference "§ 130.9(d)" to read "§ 314.8(d)."
b. In paragraph (c) (4) (v) by changing the reference "§ 130.4" to read "§ 314.1" each time it appears.

PART 8—COLOR ADDITIVES

§ 8.28 [Amended]

17. In § 8.28(b) by changing in the last sentence the reference "§§ 130.14-130.26 of this chapter" to read "§§ 314.200 through 314.232 of this chapter."

PART 131—INTERPRETIVE STATEMENTS RE WARNINGS ON VETERINARY DRUGS FOR OVER-THE-COUNTER SALE

18. The heading for Part 131 is revised to read as set forth above.

PART 132—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

§ 132.1 [Amended]

19. In § 132.1(d) by changing the reference "§ 130.3" to read "§ 312.1."

§ 132.1 [Amended]

20. In § 132.31(b) by changing the reference "§ 130.3" to read "§ 312.1 of this chapter."

PART 135—NEW ANIMAL DRUGS

§ 135.1 [Amended]

21. In § 135.1(1) by changing the reference "§ 130.38" to read "§ 310.9."

§ 135.37 [Amended]

22. In the introductory text of § 135.37 by changing the reference "§ 130.38" to read "§ 310.9."

PART 144—ANTIBIOTIC DRUGS; EXEMPTIONS FROM LABELING AND CERTIFICATION REQUIREMENTS

§ 144.8 [Amended]

23. In § 144.8 by changing the reference "§ 130.3," each time it appears, to read "§ 312.1."

§ 144.26 [Amended]

24. In § 144.26(b) (18) (i), (22) (i), (32) (i), (35), (39), (42), (44), (45), (49), (50), (54), (56), (59), (60), (61), (62), and (63), by changing the reference "§ 130.4(c) (3)" to read "§ 314.1(c) (3)"; and by changing the reference "§ 130.9" to read "§ 314.8."

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETIVE REGULATIONS

§ 146.1 [Amended]

25. In § 146.1(g) (2) by changing the reference "§ 130.12(a) (5)" to read "§ 314.111(a) (5)."

PART 601—LICENSING

§ 601.25 [Amended]

26. In § 601.25(d) (2) by changing the reference "§ 130.12(a) (5) (ii)" to read "§ 314.111(a) (5) (ii)."

The changes being made are nonsubstantive in nature and for this reason notice and public procedure are not prerequisites to this promulgation.

Dated: March 27, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 74-7384 Filed 3-28-74; 8:45 am]

Chapter II—Drug Enforcement Administration; Department of Justice

Part 1301—Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances

Part 1308—Schedules of Controlled Substances

Etorphine Hydrochloride Transfer to Schedule II

A notice dated November 15, 1973, and published in the FEDERAL REGISTER on November 23, 1973 (38 FR 32262) proposed the transfer of etorphine hydrochloride from Schedule I to Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513). All interested persons were given 30 days after publication to submit their objections, comments, or requests for a hearing.

In response to the said notice, the Administration received two comments and one objection. The Department of Health and Social Services, State of Wisconsin by letter dated December 20, 1973, concurred in the proposed transfer. The Division of Wildlife, Department of Wildlife, State of Colorado, by letter dated December 10, 1973, suggested that the distribution of etorphine hydrochloride should not be limited to licensed veterinarians. The Food and Drug Administration has restricted the use of etorphine hydrochloride and diprenorphine by or on the order of a licensed veterinarian. The Drug Enforcement Administration shall transmit additional information to the Food and Drug Administration indicating its willingness to permit other qualified persons to use

these substances if the Food and Drug Administration deems it proper and changes the labeling of the substances.

The American Pharmaceutical Association by letter dated December 20, 1973, objected to the restricted distribution of etorphine hydrochloride alleging that the Drug Enforcement Administration does not have the authority to deny any registrant the right to distribute controlled substances in schedules for which he is registered without deciding whether the American Pharmaceutical Association is an interested party with standing to object to the regulation, the Administration clearly has the authority to proscribe regulation, the Administration clearly has the authority to proscribe regulations restricting the distribution of etorphine hydrochloride. Section 871(b) of Title 21 of the United States Code provides that "the Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this title." Additional authority is found in Sections 301, 307, and 308 of the Controlled Substances Act (21 U.S.C. 827, 828 and 871(b)).

The Administration does acknowledge the necessity for codification of these procedures and amendments to Title 21 of the Code of Federal Regulations are published in this volume of the FEDERAL REGISTER.

Based upon the investigations of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811 (b)), the Administrator of the Drug Enforcement Administration finds that etorphine hydrochloride:

- (1) Has a high potential for abuse;
- (2) Has a currently accepted medical use in treatment in the United States with severe restrictions; and
- (3) May, if abused, lead to severe psychological or physical dependence.

On July 3, 1973 (38 FR 17717), the Administrator of the Drug Enforcement Administration ordered that § 1308.11(c) of Title 21 of the Code of Federal Regulations be amended by adding a new item, Drotebanol. The amendment to § 1308.11(c) renames the items therein to place Drotebanol in alphabetical order with the other controlled substances.

Therefore, under the authority vested in the Attorney General by section 201(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973) the Administrator orders that:

- a. Section 1301.02(b) of Title 21 of the Code of Federal Regulations be amended by inserting a new paragraph (b) (4) (iv) and renumbering paragraphs (b) (4) (iv)–(xiv) to read:

§ 1301.02 Definitions.

- (b) * * *
- (4) * * *
- (iv) Etorphine hydrochloride;
- (v) Ethylmorphine;
- (vi) Hydrocodone;
- (vii) Hydromorphone;
- (viii) Metopon;
- (ix) Morphine;
- (x) Oxycodone;
- (xi) Oxymorphone;
- (xii) Thebaine;
- (xiii) Mixed alkaloids of opium listed in § 1308.12(b) (2) of this chapter;
- (xiv) Cocaine; and
- (xv) Ecgonine;

b. Section 1308.11(c) of Title 21 of the Code of Federal Regulations be amended by revising subparagraphs (9)-(23) of paragraph (c) to read:

§ 1308.11 Schedule I.

(c) * * *	
(9) Droterbanol	9335
(10) Etorphine (except hydrochloride salt)	9056
(11) Heroin	9200
(12) Hydromorphenol	9301
(13) Methylodesorphine	9302
(14) Methylidihydromorphone	9304
(15) Morphine methylbromide	9306
(16) Morphine methylsulfonate	9308
(17) Morphine-N-Oxide	9307
(18) Myrophine	9308
(19) Nicocodine	9309
(20) Nicomorphine	9312
(21) Normorphine	9313
(22) Pholcodine	9314
(23) Thebacin	9315

(c) Section 1308.12(b) of Title 21 of the Code of Federal Regulations be amended by revising paragraph (b) (1) to read:

§ 1308.12 Schedule II.

(b) * * *	
(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium of opiate, excluding naloxone hydrochloride, but including the following:	
(i) Raw opium	9600
(ii) Opium extracts	9610
(iii) Opium fluid extracts	9620
(iv) Powdered opium	9639
(v) Granulated opium	9640
(vi) Tincture of opium	9630
(vii) Apomorphine	9030
(viii) Codeine	9050
(ix) Ethylmorphine	9190
(x) Etorphine hydrochloride	9059
(xi) Hydrocodone	9193
(xii) Hydromorphone	9194
(xiii) Metopon	9260
(xiv) Morphine	9300
(xv) Oxycodone	9143
(xvi) Oxymorphone	9652
(xvii) Thebaine	9333

The requirements imposed on the substance controlled by this order are as follows:

1. *Registration.* Any person who manufactures, distributes, engages in research, imports or exports any of this substance or who proposes to engage in the manufacture, distribution, importa-

tion, or exportation of, or research with, this substance shall obtain a registration to conduct that activity on or before April 19, 1974.

2. *Security.* This substance must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a), 1301.73, 1301.74(a), 1301.75, and § 1301.76 of Title 21 of the Code of Federal Regulations. In addition, all registrants desiring to handle etorphine hydrochloride will be required to use a safe or steel cabinet equivalent to a U.S. Government Class V security container after August 1, 1974. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labelling and packaging.* All labels on commercial containers of, and all labelling of, this substance which is packaged after April 19, 1974 shall comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In accordance with § 1302.08 of Title 21 of the Code of Federal Regulations, the Administrator finds that in order to protect the public health and safety early compliance with these requirements is necessitated by the high potential for abuse and the limited medical use of this substance. The shipment of etorphine hydrochloride should be under secure conditions using substantial packaging material with no markings on the outside of the package which would indicate the content. Shipment would be by the most secure means of transport available.

4. *Quotas.* Quotas for this substance have been established pursuant to section 1303 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Registrants possessing this substance will not be required to take an additional inventory.

6. *Records.* All registrants shall continue to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations. In addition, records for this substance shall be maintained separately from all other records on or before April 19, 1974.

7. *Reports.* All registrants are required to continue filing reports pursuant to Sections 1304.37-1304.41 of Title 21 of the Code of Federal Regulations. In addition, registrants supplying this substance are required to forward copies of the order forms received to the Drug Enforcement Administration on a weekly basis on or before April 19, 1974.

8. *Order forms.* Each distribution of this substance requires the use of an order form pursuant to Part 1305.03 of Title 21 of the Code of Federal Regulations. Order forms for etorphine hydrochloride shall contain this substance alone or with diprenorphine (but shall not contain any other substance) on or after April 19, 1974.

9. *Prescriptions.* The Food and Drug Administration has restricted the use of this substance by or on the order of a licensed veterinarian. Therefore, this substance is not to be obtained by use of a prescription.

10. *Importation and exportation.* All importation and exportation of any of this substance on or after April 19, 1974 shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

11. *Criminal liability.* Any activity with etorphine hydrochloride not authorized by or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act before April 19, 1974 shall be unlawful. The applicable penalties shall be those of a Schedule I narcotic controlled substance. On April 19, 1974, etorphine hydrochloride for the purposes of criminal liability shall be treated as a Schedule II controlled substance. It should be noted that penalties of Schedule I or II narcotic controlled substances are the same. The only effect of the transfer will be for pleading purposes.

12. *Other.* In all other respects, this order is effective on April 19, 1974.

Dated: March 25, 1974.

JOHN R. BARTELS, JR.,

Administrator,

Drug Enforcement Administration.

[FR Doc. 74-7275 Filed 3-28-74; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7309]

PART 301—PROCEDURE AND ADMINISTRATION

Time for Performance of Acts Where Last Day Falls on a Legal Holiday

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for Monday, July 16, 1973 (38 FR 18897), an amendment to the regulations on Procedure and Administration (26 CFR Part 301) under section 7503 of the Internal Revenue Code of 1954 was proposed in order to conform such regulations to the changes made by Pub. L. 90-363, 82 Stat. 250, which amended 5 U.S.C. 6103(a), regarding the observance of certain legal holidays on Monday. The amendment of 5 U.S.C. 6103(a) was effective on January 1, 1971. After consideration of all such relevant matter as was presented by interested persons, certain changes were made, and the proposed amendment of the regulations, subject to the changes indicated below, is adopted by this document.

The amendment to the regulations is designed to conform § 301.7503-1(b) (1) to the present District of Columbia law regarding the date of observance of legal holidays. The District of Columbia now observes Washington's Birthday on the third Monday in February, Memorial Day on the last Monday in May, Veterans' Day on the fourth Monday in October, and Thanksgiving on the fourth Thursday in November. Columbus Day is also considered a legal holiday in the District of Columbia for all calendar years after 1970, and is observed on the

second Monday in October. Under the amendment of the regulations, the dates of observance of these holidays for purposes of the Internal Revenue Code of 1954 will correspond to the dates of observance of these holidays in the District of Columbia. So that the amendment to the regulations will not adversely affect certain taxpayers who relied on the current regulations, for the calendar years 1971, 1972, 1973, and 1974, taxpayers may, at their option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Washington's Birthday as falling on either February 22 or the third Monday in February. For the calendar years 1971, 1972, and 1973, taxpayers may, at their option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Memorial Day as falling on either May 30 or the last Monday in May, and Veterans' Day as falling on either November 11 or the fourth Monday in October. The option is denied to taxpayers in those cases where the performance of an act relates to the jurisdiction of a court in order to be consistent with William M. Winkler, 56 T.C. 844 (1971). In that case the United States Tax Court held that in computing the 150-day filing requirement of section 6213(a) of the Code, Monday, February 15, 1971, was a legal holiday (Washington's Birthday) in the District of Columbia. The Tax Court made no mention of the availability of an option in cases where the performance of an act relates to the jurisdiction of a court.

The proposed regulations did not extend optional treatment to Veterans' Day for 1973 or Washington's Birthday for 1974.

Pursuant to paragraph 4(a) of Treasury Order 221, published in the FEDERAL REGISTER for June 10, 1972 (37 FR 11696), certain regulations of the Internal Revenue Service continue in effect as regulations of the Bureau of Alcohol, Tobacco, and Firearms until superseded or revised. The regulations amended by this Treasury decision are among those that continue to apply for purposes of the laws administered by the Bureau in addition to applying for purposes of the laws administered by the Internal Revenue Service. The Director, Bureau of Alcohol, Tobacco, and Firearms has, for this reason, joined as a signatory to this Treasury decision.

Adoption of amendment to the regulations. On Monday, July 16, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (33 FR 18897) to amend the Regulations on Procedure and Administration (26 CFR Part 301) under section 7503 of the Internal Revenue Code of 1954 in order to conform such regulations to the changes made by Pub. L. 90-363, 82 Stat. 250, which amended 5 U.S.C. 6103(a), regarding the observance of certain legal holidays on Monday. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

PARAGRAPH (b)(1) of § 301.7503-1 is amended as set forth below:

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)))

REX D. DAVIS,
Director, Bureau of Alcohol,
Tobacco, and Firearms.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: March 22, 1974.

JOHN H. HALL,
Deputy Assistant Secretary of the
Treasury.

Paragraph (b)(1) of § 301.7503-1 is amended to read as follows:

§ 301.7503-1 Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.

(b) *Legal holidays.* (1) For the purpose of section 7503, the term "legal holiday" includes the legal holidays in the District of Columbia. Such legal holidays found in D.C. Code Ann. § 28-2701 (1967) and 5 U.S.C. 6103(a), as enacted and made effective by the Act of June 28, 1968 (82 Stat. 250), are—

- (i) January 1, New Year's Day,
- (ii) January 20, when such day is Inauguration Day,
- (iii) Third Monday in February, Washington's Birthday,
- (iv) Last Monday in May, Memorial Day,
- (v) July 4, Independence Day,
- (vi) First Monday in September, Labor Day,
- (vii) Second Monday in October, Columbus Day,
- (viii) Fourth Monday in October, Veterans' Day,
- (ix) Fourth Thursday in November, Thanksgiving Day, and
- (x) December 25, Christmas Day.

When a legal holiday in the District of Columbia falls on a Sunday, the next day is a legal holiday in the District of Columbia (see D.C. Code Ann. § 28-2701 (1967)). For the purpose of section 7503, when a legal holiday in the District of Columbia (other than Inauguration Day) falls on a Saturday it shall be treated as falling on the preceding Friday. For calendar years prior to 1971, Washington's Birthday will be treated as falling on February 22, Memorial Day on May 30, and Veterans' Day on November 11. For calendar years 1971, 1972, 1973, and 1974, the taxpayer may, at his option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Washington's Birthday as falling on either February 22 or the third Monday in February. For calendar years 1971, 1972, and 1973, the taxpayer may, at his option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Memorial Day as falling on either May 30 or the last Monday in May, and Veterans' Day as falling on either November 11 or the fourth Monday in October. Columbus Day is not a legal

holiday in the District of Columbia in any calendar year prior to 1971.

[FR Doc. 74-7342 Filed 3-27-74; 8:45 am]

[T. D. 7310]

PART 301—PROCEDURE AND ADMINISTRATION

Disclosure or Use of Information by Preparers of Returns

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for December 20, 1972 (37 FR 28070), amendments to the Regulations on Procedure and Administration (26 CFR Part 301) were proposed in order to conform the regulations to section 7216 of the Internal Revenue Code of 1954, relating to the disclosure or use of information by preparers of returns, as added by section 316 of the Revenue Act of 1971 (85 Stat. 529). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the proposed amendments of the regulations, subject to the changes indicated below, are adopted by this document.

Section 7216(a) of the Code provides that any person who is engaged in the business of preparing, or providing services in connection with the preparation of, income tax returns or declarations of estimated tax and who discloses any tax return information or uses such information for any purpose other than to prepare, or assist in preparing, a return shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both. Section 7216(a) also applies to any person who for compensation prepares any such return or declaration, whether or not such person is in the tax return preparer business.

Section 7216(b) provides certain exceptions to the new penalty rule. A tax return preparer may without penalty disclose tax return information if such disclosure is made pursuant to any other provision of the Internal Revenue Code or pursuant to an order of a court. The penalty does not apply to the use of information in the preparation of State and local tax returns. Furthermore, the Secretary or his delegate is authorized to prescribe regulations under which other disclosures or uses will not be subject to the penalty.

As published with the notice of proposed rule making, § 301.7216-1 contained in paragraph (a) the general rule for the application of section 7216 and in paragraph (b) detailed definitions of the terms "tax return", "tax return preparer", "tax return processor", and "tax return information". This document makes a technical change in paragraph (a) to make clear that the tax return referred to therein is the return of the taxpayer in respect of whom the information was furnished. Paragraph (b) is revised substantially by this document. The distinction between a tax return preparer and a tax return processor is eliminated. Persons who under the notice of